

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1281 - SB 1526

March 16, 2009

SUMMARY OF BILL: Transfers contested case hearings under the jurisdiction of the Department of Revenue (DOR) to the Office of Secretary of State (SOS). Deletes the requirement that all revenue rulings and letter rulings issued by DOR be subject to the Uniform Administrative Procedures Act. Requires any administrative judge or hearing officer positions currently filled in DOR to be transferred to the SOS.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue –
\$103,400/FY10-11 and Subsequent Years/Secretary of State**

**Increase State Expenditures –
\$832,100/FY10-11/Dept. of Revenue
\$809,000/FY11-12 and Subsequent Years/Dept. of Revenue**

Other Fiscal Impact – Four positions, as well as \$304,000 of recurring funding for these positions, will shift from the Department of Revenue to the Office of Secretary of State beginning in FY10-11.

Assumptions:

- The effective date for this bill is July 1, 2010.
- According to DOR, this bill effectively eliminates informal conference hearings pursuant to Tenn. Code Ann. § 67-1-1801(c)(3) by providing formal hearings for all tax disputes. Therefore, such informal conference hearings and contested case hearings pursuant to Tenn. Code Ann. § 67-1-105 will be transferred to the SOS.
- Based on information provided by SOS, DOR had 17 contested case hearings and approximately 500 informal conferences in 2008. These numbers are assumed to remain constant in subsequent years.

- According to DOR, this bill will require additional staff and related preparation costs due to the imminent formality of what will occur with cases that currently undergo the informal conference process. DOR indicates that depositions and other related legal proceedings would require form line employees/field auditors.
- Two additional Tax Auditor 4 positions in the Audit Division and three Attorney 3 positions and one Legal Assistant position in the Legal Division. The associated increase to recurring state expenditures is estimated to be \$401,600 per year beginning in FY10-11 (\$250,400 salaries, \$125,200 benefits, \$26,000 other). The associated increase to one-time state expenditures to occur in FY10-11 is estimated to be \$23,100 (computers, software, communications, etc.).
- DOR indicates that it would also have to replace one Hearing Officer 2 position, two Hearing Officer 1 positions, and one legal assistant position that would be transferred to SOS. Given that funding for these positions will be transferred to SOS, an additional increase to recurring state expenditures would occur. This recurring increase to state expenditures is estimated to be \$304,000 per year beginning in FY10-11 (\$171,000 salaries, \$84,400 benefits, \$48,600 other).
- SOS receives four positions from DOR as well as funding for the four positions at the beginning of FY10-11.
- According to SOS, the Administrative Procedures Division (APD) charges agencies \$200 for docketing a case with the APD.
- The increase of revenue to SOS is estimated to be \$103,400 per year beginning in FY10-11 $[(500 + 17) \times \$200 = \$103,400]$. This is also considered to be a recurring expense for DOR beginning in FY10-11

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/rnc